

DOCKET NO.: 248993US23



IFW

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF:

Jim THRELKELD, et al.

SERIAL NO: 10/785,060

GROUP: 1615

FILED: February 25, 2004

EXAMINER: Melissa S. MERCIER

FOR: METHOD FOR PROVIDING ANTIMICROBIAL COMPOSITE YARNS,  
COMPOSITE FABRICS AND ARTICLES MADE THEREFROM

**LETTER**

Mail Stop DD  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Submitted herewith are an International Preliminary Report on Patentability and a Written Opinion for the Examiner's consideration.

Respectfully Submitted,

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# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

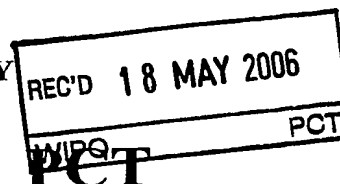
|  |   |   |
|--|---|---|
| Applicant's or agent's file reference<br><b>248993WO</b>   | <b>FOR FURTHER ACTION</b>   | See item 4 below  |
| International application No.<br><b>PCT/US2005/005882</b>  | International filing date ( <i>day/month/year</i> )<br><b>25 February 2005 (25.02.2005)</b> | Priority date ( <i>day/month/year</i> )<br><b>25 February 2004 (25.02.2004)</b> |
| International Patent Classification (8th edition unless older edition indicated)<br>See relevant information in Form PCT/ISA/237 |   |   |
| Applicant<br><b>SUPREME ELASTIC CORPORATION</b>  |   |   |

|                                     |  |   |           |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
|-------------------------------------|--|---|-----------|---------------------|--------------------------|------------|----------|--------------------------|-------------|--|--------------------------|------------|----------------------------|-------------------------------------|-----------|---|--------------------------|------------|-------------------------|--------------------------|-------------|--|--------------------------|--------------|---|
| 1.                                  | This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).  |   |           |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| 2.                                  | This REPORT consists of a total of 4 sheets, including this cover sheet.<br><br>In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.  |   |           |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| 3.                                  | <p>This report contains indications relating to the following items:</p> <table style="width: 100%;"> <tr> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 30%;">Box No. I</td> <td style="width: 80%;">Basis of the report</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table> | <input checked="" type="checkbox"/>   | Box No. I | Basis of the report | <input type="checkbox"/> | Box No. II | Priority | <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability | <input type="checkbox"/> | Box No. IV | Lack of unity of invention | <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement | <input type="checkbox"/> | Box No. VI | Certain documents cited | <input type="checkbox"/> | Box No. VII | Certain defects in the international application | <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |
| <input checked="" type="checkbox"/> | Box No. I  | Basis of the report   |           |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>            | Box No. II   | Priority  |           |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>            | Box No. III  | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |           |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>            | Box No. IV   | Lack of unity of invention  |           |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input checked="" type="checkbox"/> | Box No. V  | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |           |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>            | Box No. VI   | Certain documents cited   |           |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>            | Box No. VII  | Certain defects in the international application  |           |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>            | Box No. VIII   | Certain observations on the international application   |           |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| 4.                                  | The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).   |   |           |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |

|   |  |   |  |                    |                       |                       |  |
|---|--|---|--|--------------------|-----------------------|-----------------------|--|
| The International Bureau of WIPO<br>34, chemin des Colombettes<br>1211 Geneva 20, Switzerland | <table style="width: 100%;"> <tr> <td style="width: 50%;">Date of issuance of this report<br/><b>30 August 2006 (30.08.2006)</b></td> <td style="width: 50%;"></td> </tr> <tr> <td>Authorized officer</td> <td style="text-align: center;"><b>Simin Baharlou</b></td> </tr> <tr> <td colspan="2">e-mail: pt09@wipo.int</td> </tr> </table> | Date of issuance of this report<br><b>30 August 2006 (30.08.2006)</b> |  | Authorized officer | <b>Simin Baharlou</b> | e-mail: pt09@wipo.int |  |
| Date of issuance of this report<br><b>30 August 2006 (30.08.2006)</b>                         |  |   |  |                    |                       |                       |  |
| Authorized officer  | <b>Simin Baharlou</b>  |   |  |                    |                       |                       |  |
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| Facsimile No. +41 22 338 82 70  |  |   |  |                    |                       |                       |  |

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY



To:  
J. DEREK MASON  
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT,  
P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing  
(day/month/year)

15 MAY 2006

Applicant's or agent's file reference

248993WO

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/US05/05882

International filing date (day/month/year)

25 February 2005 (25.02.2005)

Priority date (day/month/year)

25 February 2004 (25.02.2004)

International Patent Classification (IPC) or both national classification and IPC

IPC: D02G 3/00( 2006.01)

USPC: 428/365

Applicant

SUPREME ELASTIC CORPORATION

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US

Mail Stop PCT, Attn: ISA/US  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Facsimile No. (571) 273-3201

Date of completion of this opinion

19 April 2006 (19.04.2006)

Authorized officer

Pili A. Hawes

Telephone No. 571-272-1600

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/US05/05882

**Box No. I Basis of this opinion**

1. With regard to the language, this opinion has been established on the basis of:

☒ the international application in the language in which it was filed

☐ a translation of the international application into \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ on paper

☐ in electronic form

c. time of filing/furnishing

☐ contained in the international application as filed.

☐ filed together with the international application in electronic form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/US05/05882

**Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

|                               |                    |     |
|-------------------------------|--------------------|-----|
| Novelty (N)                   | Claims <u>1</u>    | YES |
|                               | Claims <u>2-18</u> | NO  |
| Inventive step (IS)           | Claims <u>NONE</u> | YES |
|                               | Claims <u>1-18</u> | NO  |
| Industrial applicability (IA) | Claims <u>1-18</u> | YES |
|                               | Claims <u>NONE</u> | NO  |

**2. Citations and explanations:**

Claim 1 lacks novelty under PCT Article 33(2) as being anticipated by Rubin et al. .  
Rubin teaches a method of coating fabric with an antimicrobial composition. Example 1 discloses the coating composition comprises an antimicrobial agent, Biocide and water. The reference teaches that any antimicrobial composition could be used in making the coating solution. Example 2 discloses the method of the invention, it discloses that the fabric is completely wet by the liquid coating composition. Thus one of ordinary skill in the art would recognize this as a teaching that the coating was completely immersed in the coating solution. The second step of the method is the fabric is dried in an oven. One of ordinary skill in the art would recognize that the solution can be reused to coat other fabric composites because the reference teaches that the solution is reused to re-coat the fabric between iterative coatings and oven drying. Thus the reference anticipates the instant invention.

Claims 1-18 lack an inventive step under PCT Article 33(3) as being obvious over Rubin. Rubin teaches a method of coating fabric with an antimicrobial composition. Example 1 discloses the coating composition comprises an antimicrobial agent, Biocide and water. The reference teaches that any antimicrobial composition could be used in making the coating solution. Example 2 discloses the method of the invention, it discloses that the fabric is completely wet by the liquid coating composition. Thus one of ordinary skill in the art would recognize this as a teaching that the coating was completely immersed in the coating solution. The second step of the method is the fabric is dried in an oven. One of ordinary skill in the art would recognize that the solution can be reused to coat other fabric composites because the reference teaches that the solution is reused to re-coat the fabric between iterative coatings and oven drying. Thus the reference anticipates the instant invention.

Claims 1-18 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.